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HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. (C) No. 5501 of 2006

Petitioner		Smt. Neha Pandey, aged about 34 years, wife of Shri Lakshmikant Pandey, (Elected Sarpanch), Gram Panchayat Sarsiwa, Block-Bilaigarh, District- Raipur (C.G.).
	Versus	
Respondents	1.	State of C.G. Through Upper Collector, Balodabazar, District-Raipur (C.G.).
	2.	Sub Divisional Officer (Revenue) Bilaigarh, District- Raipur (C.G.). (Prescribed Authority)
	3.	Tahsildar, Bilaigarh, District-Raipur (C.G.). (Presiding Officer)
	4.	Gram Panchayat Sarsiwa, Through Panchayat Secretary, Block- Bilaigarh, District- Raipur (C.G.).

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

SB: Hon'ble Shri **Satish K. Agnihotri, J.**

Shri Virendra Shrama, Advocate for the petitioner.

Shri Satish Gupta, Deputy Govt. Advocate for the respondents No. 1 to 3.

Shri Vinay Pandey, Advocate for the respondent No. 4.

ORDER

(Passed on this 8th day of August, 2007)

1. The petitioner, by this petition is impugning the 'no-confidence' motion held on 27.9.2006 against the petitioner (elected Sarpanch of Gram Panchayat, Sarsiwa) under the provisions of Section 21((1) of the Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (for short 'the Adhiniyam, 1993'), wherein the 'no-confidence' motion was carried out by majority. Out of 21 members constituting Gram Panchayat 20 members were present and voted and out of them 18 members voted in favour of the 'no-confidence' motion.

2. Being aggrieved, the petitioner preferred an appeal before the Additional Collector under Section 91 of the Adhiniyam, 1993. The Additional Collector vide order dated 29.9.2006 (Annexure P/6) dismissed the appeal as not maintainable.
3. The provisions of Section 21 (4) of the Adhiniyam, 1993 are very clear and unambiguous. It clearly provides that if the Sarpanch desires to challenge the validity of the motion carried out under sub-section (1), he shall, within seven days from the date on which such motion was carried, refer the dispute to the Collector who shall decide it, as far as possible, within thirty days from the date on which it was received by him.
4. The petitioner, instead of referring the dispute to the Collector, as provided in sub-section (4) of Section 21 of the Adhiniyam, 1993, had chosen to file appeal before the Additional Collector which was rejected vide impugned order dated 29.9.2006 (Annexure P/6) as not maintainable. The petitioner has not gone in appeal before the Director, Panchayats but has preferred this petition, ignoring the clear provisions of sub-section (4) of Section 21 of the Adhiniyam, 1993, which mandates reference of the dispute to the Collector.
5. In the facts of the case this petition is not maintainable as the petitioner has ignored the statutory provisions and rushed to this Court without establishing any fundamental or legal rights or breach thereof.
6. In view of the foregoing this petition is dismissed. However, in the interest of justice, the petitioner is granted liberty to take recourse to any other forum that may be available to the petitioner, if so advised.

Sd/-
Satish K. Agnihotri
Judge

Thakur